

REMARKS/ARGUMENTS

Reconsideration of this Application and entry of this Amendment after Final are respectfully requested. The proposed amendment places the claims in better form for appeal. Additionally, this amendment addresses items brought up by the examiner in the final office action. In view of the amendments and following remarks, favorable consideration and allowance of the application is respectfully requested.

In the final office action, claims 1-3, 16, 20-22, 24-25, 27, 30-31 and 34-35 were rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 5,965,089 (Jarvik et al.). In the office action, the Examiner took the position that the recitation in Claim 1 that the coupler was “intracorporeal” did not constitute a limitation on the structure of the apparatus and therefore did not distinguish over Jarvik et al..

By the present amendment, Applicant has removed the word “intracorporeal” from the recitation of the connector and has added the limitation that the entirety of the inlet conduit, outlet conduit and coupler are sized and constructed so as to be implanted within the chest cavity of the subject. This clearly constitutes a structural limitation on the apparatus and is fully supported by the specification (see Figure 1 and accompanying description thereof). As explained in connection with Applicant’s previously filed response, Jarvic et al. teaches a device where long inlet and outlet conduits extend outside the body and are connected to a large pump positioned outside the body. Jarvik et al. contains no enabling disclosure of any way in which his device, including the pump, could be sized and constructed so as to be implantable inside the chest cavity of the subject. Thus, independent Claim 1 and all dependent claims are believed to be allowable over Jarvic et al.

This amendment merely imparts more structural wording to the claim language and does not introduce any new issues that were not fully considered by the Examiner in response to the prior amendment. Accordingly, entry of this amendment and allowance of all claims is believed to be proper.

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Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 566-1746.

Respectfully submitted,



Michael J. Jaro
Registration No. 34,472
Attorney for Applicant

Medtronic Vascular, Inc.
3576 Unocal Place
Santa Rosa, CA 95403
Facsimile No.: (707) 543-5420